

THOMAS M. BURTON (035856)
 5820 Stoneridge Mall Road, Suite 100
 Pleasanton, CA 94588
 (925) 484-3233, (801) 918-1656
 (925) 847-2001
 P.O. Box 17120
 Salt Lake City, Utah 84117
 (801) 918-1656
 (801) 281-1487

Attorney for Plaintiff.

IN THE UNITED STATES DISTRICT COURT
 IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

LAWRENCE REYNOLDS,

Plaintiff

Vs.

GERALD VERBECK, DOES I through V.,
 individually and as agents THE CITY OF
 DUBLIN, a municipality; M. FORBES,
 L.V.N. and BAYANI AZUCENAS, R.N.,
 employees of PRISON HEALTH SERVICES,
 INC., a corporation and contractor of Alameda
 County; DEPUTY MINEO, an employee of
 Alameda County; DOES VI through X,
 individually and as agents of ALAMEDA
 COUNTY; and HOME DEPOT, a foreign
 corporation,

Defendants

NO. CV-05-05201 CRB

**REQUEST AND DELCARATION TO
 FILE OPPOSITION TO MOTION TO
 DISMISS AND FOR SUMMARY
 JUDGMENT OUT OF TIME**

The Honorable Charles R. Breyer

Date: December 15, 2006

Time: 10:00 a.m.

Place: Courtroom 8

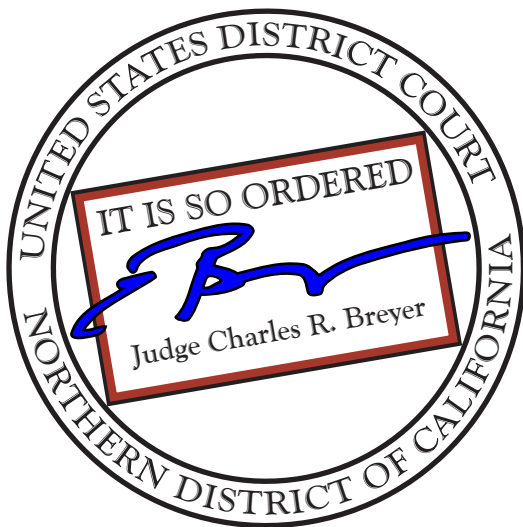
Thomas M. Burton declares:

1. I am attorney of record for the plaintiff in the subject case and have personal knowledge of the facts stated in this declaration as to which I would be competent to testify if called as a witness.
2. I have temporarily lost track of the plaintiff, Lawrence Reynolds. I have checked with numerous sources for his latest whereabouts. It has been several months since he contacted me. He is somewhat itinerate because of losing his job and trying to find temporary work at various gas stations and at Macy's Department Store in Walnut Creek, where he might reappear for the Christmas holidays. I apologize for the delay of this opposition and it will have to be filed without his declaration.
3. I am confident that I will locate him so that he will be available for purposes of discovery.
4. I request, therefore, permission to file the subject opposition out of time.

Executed under penalty of perjury under the laws of the State of California at Salt Lake City, Utah on November 30, 2006.

_____/s/____

Thomas M. Burton



December 1, 2006